



UNITED STATES DEPARTMENT OF COMMERCE  
Chief Financial Officer  
Assistant Secretary for Administration  
Washington, D.C. 20230

AUG 25 1998

The Honorable Ted Stevens  
Chairman, Committee on Appropriations  
United States Senate  
Washington, D.C. 20510-6025

Dear Mr. Chairman:

In accordance with the Conference Report accompanying the 1997 Supplemental Appropriations Act (H. Rpt. 105-119) and Section 605 of Public Law (P.L.) 104-208, this letter outlines the implementation plan of the National Oceanic and Atmospheric Administration (NOAA) for the expenditure of disaster assistance funds. These funds were appropriated under the Emergency Supplemental Appropriations Act (P.L. 105-18) pursuant to Section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Furthermore, we propose redirecting a portion of these funds to be expended under the authority of Section 402(d) of the MSA.

#### BACKGROUND

A total of \$7 million was appropriated, \$3.5 million for the Pacific Northwest and \$3.5 million for the Gulf of Mexico region, for NOAA to provide disaster assistance related to flooding and red tide incidents.

Section 312(a) of the MSA allows the Secretary of Commerce, at the Secretary's discretion or upon request of a Governor, to determine if a commercial fishery failure occurred due to a fishery resource disaster of natural causes, man-made causes beyond the control of fishery managers to mitigate, or undetermined causes. Upon making such a determination, the Secretary is authorized to make funds available for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary deems appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. The activity proposed must not expand the size or scope of the commercial fishery failure, and the Federal share of the cost of any such activity is limited to 75 percent.

#### DETERMINATIONS OF COMMERCIAL FISHERY FAILURE

NOAA's National Marine Fisheries Service (NMFS) has reviewed the requests for assistance from the Governors of the affected States and supporting information, and determined that there have been commercial fishery failures due to a fishery resource disaster in both the Northwest and Gulf regions. The determinations are enclosed.

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In the Northwest, the commercial salmon fishery has failed due to a fishery resource disaster. The resource disaster was due to a combination of natural and man-made causes. The major flood events in the winters of 1996 and 1997 killed salmon eggs, interfered with the ability of adult salmon to return to their native streams, and damaged salmon habitat. Hydropower, agriculture, logging practices, and urban development are man-made causes that have and are still contributing to the disaster. These causes are beyond the control of fishery managers to mitigate through conservation and management measures.

In the Gulf of Mexico, there has been a commercial fishery failure associated with flooding due to increased releases from the Bonnet Carre Spillway. The spillway was opened for one month in 1997 to protect the surrounding area from devastating floods. The opening caused a large inflow of fresh water into Lake Pontchartrain, Louisiana, and the coastal marine waters of Mississippi, resulting in death or displacement of numerous species, including brown shrimp. The extremely steep decline in brown shrimp available for harvest constitutes a commercial failure of that fishery.

However, after careful review, NMFS has determined that the effects of red tide events in the Gulf region do not constitute a commercial fishery failure as defined under Section 312(a) of the MSA. Red tide outbreaks caused the temporary closure of oyster beds, relatively small decreases in landings of commercial finfish species, and kills of fish not subject to commercial fishing. Thus, no portion of the \$3.5 million appropriation can be used under the authority of Section 312(a) to meet Congressional intent to address red tide impacts, but Section 402(d) could be invoked as authority to fund research on red tide.

#### PROPOSED DISASTER ASSISTANCE PROGRAMS

The Conference Report accompanying the Emergency Supplemental directed that assistance funds be used "for activities which directly benefit the fishermen in these areas."

In the Northwest, only the State of Washington requested that a commercial fishery failure be determined. A grant will be awarded to the State of Washington in the amount of \$4.67 million (\$3.5 million Federal share and \$1.17 million in required State matching funds) to conduct a salmon license buyback program. This program will provide direct assistance to Washington salmon permit holders who were negatively impacted by a resource failure that was exacerbated by flooding. The buyback will also meet the requirements of

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Section 312(a) of the MSA in that it will help restore the fishery or help prevent a future commercial failure by reducing fishing effort in the salmon fishery. Furthermore, the program will assist the affected fishing community by providing cash payments to those who surrender their permits, and reducing competition for those remaining in the fishery.

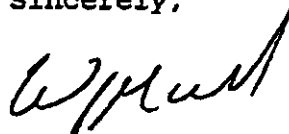
Under the proposed assistance program for the Gulf of Mexico, the States of Mississippi and Louisiana will receive up to a total of \$2.05 million in Federal funds plus the required State match to address the commercial fishery failure caused by the opening of the Bonnet Carre Spillway. The specific programs to be conducted and the funding amount and allocation will be determined in consultation with the Gulf States.

We propose that the amount remaining for the Gulf be redirected to expend the funds under Section 402(d) of the MSA. This change in authority is needed to meet Congressional intent to assist fishermen for impacts associated with red tide, even though red tide does not constitute a commercial fishery failure. Section 402(d) allows the Secretary of Commerce to provide financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for conducting information collection or other programs. The funds will be allocated among the five Gulf States for research on red tide, including remote monitoring, methods to predict outbreaks, and field testing, and for consumer education. This program will directly assist fishermen by potentially narrowing the range and duration of future closures due to red tide and by enhancing consumer confidence in Gulf oysters. The funding level and allocation will be determined in consultation with the Gulf States.

In accordance with the intent of P.L. 105-18 and Section 312(a) of the MSA, NOAA would make assistance to the Gulf States under Section 402(d) contingent upon the States providing at least 25 percent of the total cost of any activity.

I am available to answer any questions you may have regarding this implementation plan. Your continued support of the Department of Commerce is appreciated.

Sincerely,



W. Scott Gould

Enclosures